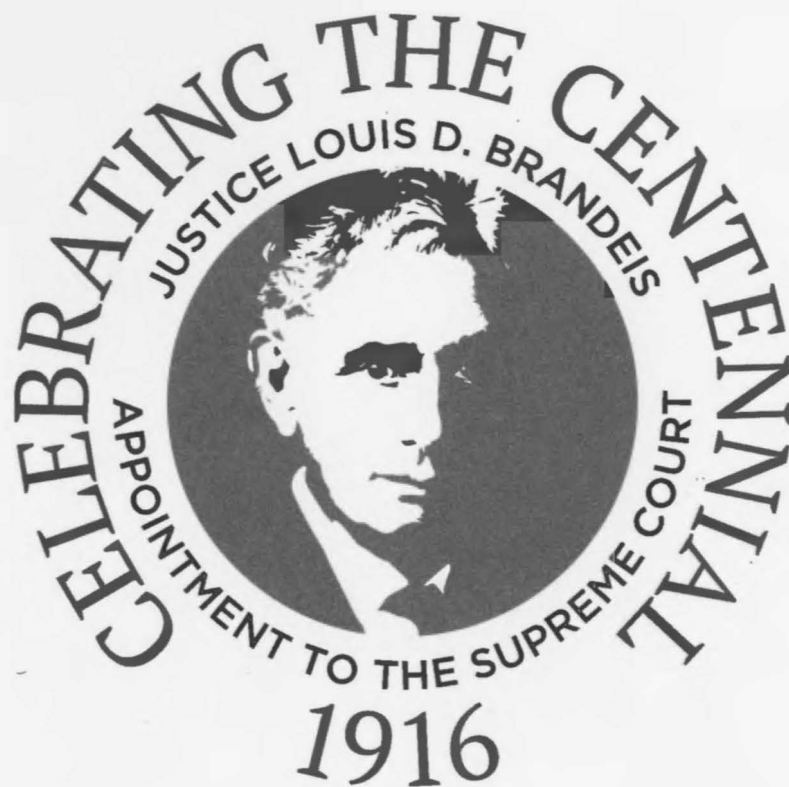
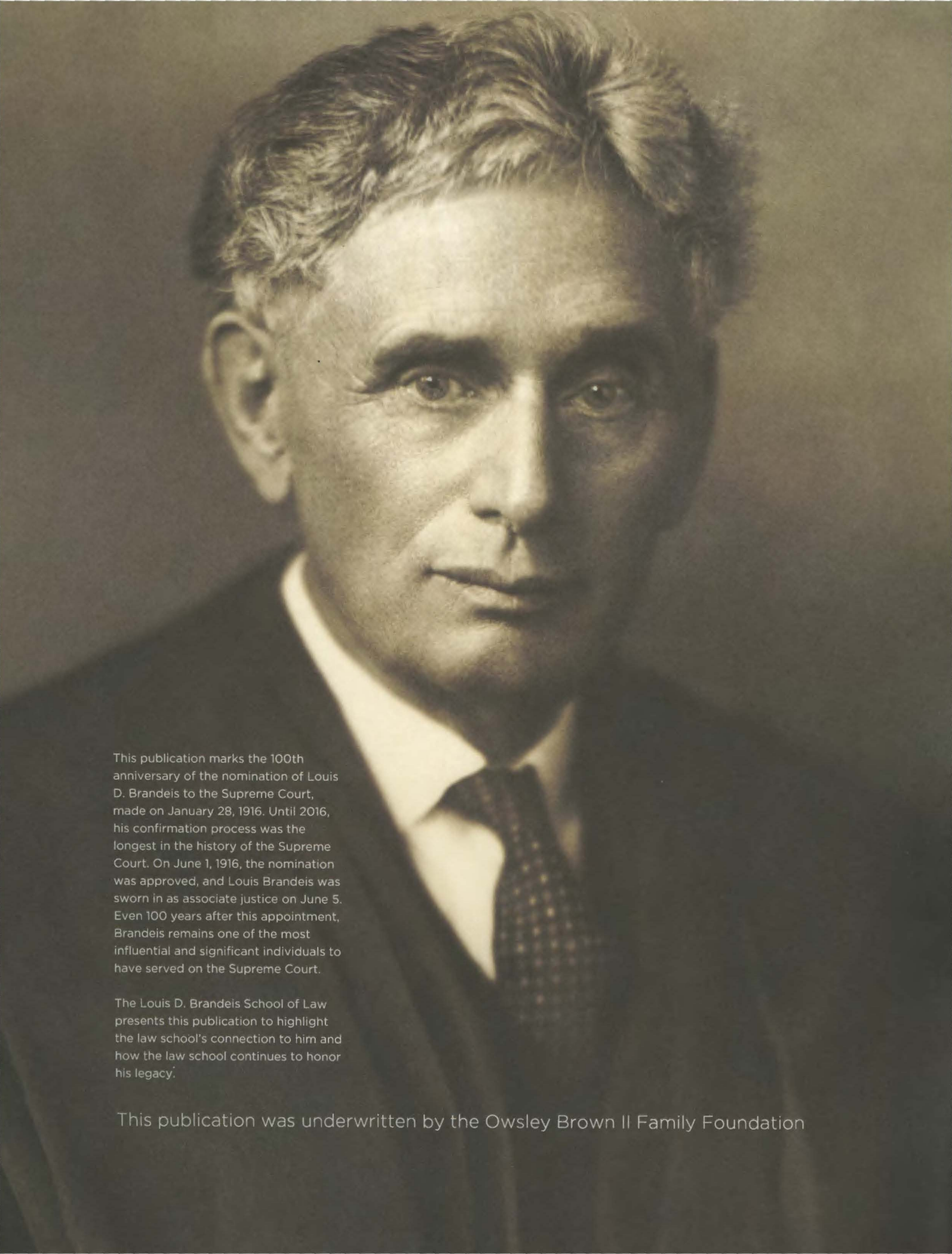






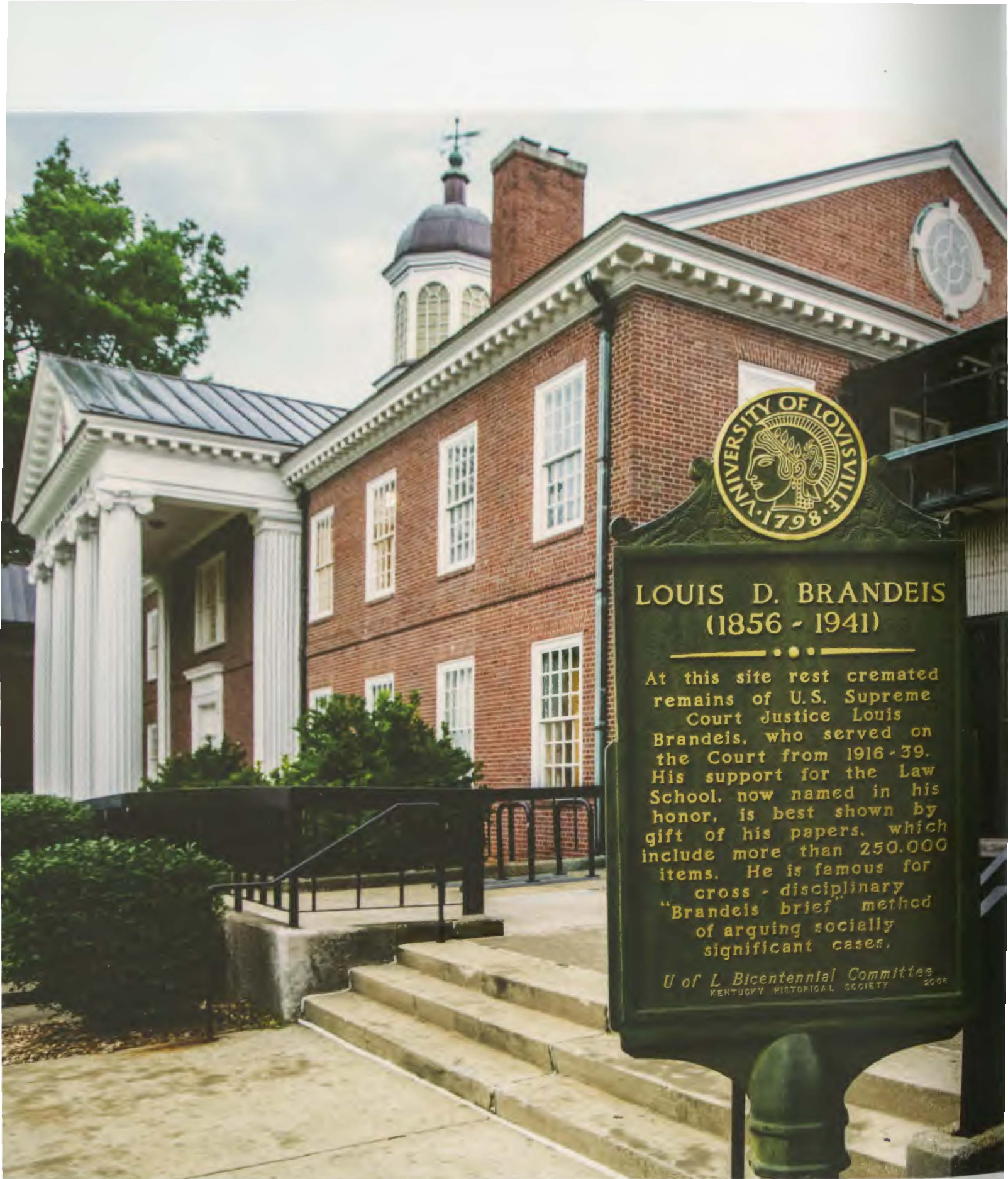
This publication marks the 100th anniversary of the nomination of Louis D. Brandeis to the Supreme Court, made on January 28, 1916. Until 2016, his confirmation process was the longest in the history of the Supreme Court. On June 1, 1916, the nomination was approved, and Louis Brandeis was sworn in as associate justice on June 5. Even 100 years after this appointment, Brandeis remains one of the most influential and significant individuals to have served on the Supreme Court.

The Louis D. Brandeis School of Law presents this publication to highlight the law school's connection to him and how the law school continues to honor his legacy.

This publication was underwritten by the Owsley Brown II Family Foundation

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**LOUIS D. BRANDEIS
(1856 - 1941)**

At this site rest cremated remains of U.S. Supreme Court Justice Louis Brandeis, who served on the Court from 1916-39. His support for the Law School, now named in his honor, is best shown by gift of his papers, which include more than 250,000 items. He is famous for cross-disciplinary "Brandeis brief" method of arguing socially significant cases.

U of L Bicentennial Committee
KENTUCKY HISTORICAL SOCIETY 2008

Brandeis Appointment to the Court

by Melvin I. Urofsky

In January 1916, Woodrow Wilson shocked the nation and the Senate when he nominated Louis D. Brandeis to the Supreme Court. Brandeis had been a trusted advisor to the president since the 1912 campaign, and Progressive reformers as well as American Jewry considered him a hero. Business interests, however, saw him as a radical, one who fought against monopoly and had attacked the way big banks used "other people's money." They saw the Court as a defensive barrier to protect them from the reformers and the "mobs."

In those days not only were confirmation hearings rare (most Court nominations had gone directly to a vote on the Senate floor), but nominees did not testify in their own behalf. All of the enemies Brandeis had made as a reformer attacked him at the hearings. Brandeis's law partner and protégé, Ned McClennen, went to Washington, and every day reported to Brandeis the charges made against him. Brandeis and his secretary, Alice H. Grady, would then go through the files, and Brandeis would dictate a lengthy letter rebutting the charges and indicating the ties his assailants had with big business. These letters form the nearest thing we have to an autobiography of Brandeis's years as a reformer.

Finally, after nearly four months, Wilson invoked party discipline. The Judiciary Committee and then on June 1, the full Senate approved the nomination, the latter by a vote of 47-22. Only one Democrat voted no, while three Republicans — Robert LaFollette, George Norris, and Miles Poindexter — all Progressives — voted yea. At his office the next day Brandeis found a telegram with the message "WELCOME." It came from Oliver Wendell Holmes.

The Brandeis Connection to the University of Louisville School of Law

At the cornerstone laying for the law school building in 1938, Dean Robert M. Miller noted, "It is hard for one who has not lived through the struggle of the law school to appreciate Mr. Justice Brandeis' influence and assistance. He always kept in the background, seeking no word of appreciation for himself or what he had done...his vision of the law school was as an active force in the community, rather than just another school turning out lawyers."

From Oscar Bryant, *A Community at its Best*, UofL Magazine, Spring 1997

The Brandeis Medal was established in 1982 to recognize individuals whose lives reflect Justice Brandeis's commitment to the ideals of individual liberty, concern for the disadvantaged and public service. The medal is cast in the likeness of Justice Brandeis as a reminder of his contributions and dedication to the law. A 2016 event at the Supreme Court Historical Society cohosted by the Brandeis School of Law recognized these recipients.

1982



Shirley Hufstedler

Judge, Ninth Circuit Court of Appeals

Secretary of Education

The Brandeis Vision

Below is an excerpt from comments by Dean Donald Burnett, who was dean in 1997 when the name of the school was changed. These comments originally were published in Volume 37 Brandeis Law Journal (1998-1999).

In 1925, having already begun a series of gifts to the University of Louisville, Justice Brandeis wrote the time had come to "build a law school of distinction." Founded in 1846, Louisville's law school already was in its eighth decade when Justice Brandeis began to invest in it. He gave the school his personal library, including many rare texts on early civil and common law; his personal papers, comprising approximately 250,000 items; and his money (even buying light fixtures when the law school was located in a downtown building before moving to its current location on the Belknap campus in 1938). He also helped raise money from other donors; aided the school in obtaining the papers of Justice John Marshall Harlan, the "great dissenter;" arranged for the school to receive original briefs filed with the United States Supreme Court, a practice the Court still honors; and bequeathed a substantial part of his estate to the University of Louisville. After his death in 1941, his remains — and later the remains of his wife, Alice Goldmark Brandeis — were buried unobtrusively beneath the law school's classical portico.

To Justice Brandeis, the University of Louisville presented an opportunity to translate his fundamental beliefs about law and policy into a new vision for legal education. His distrust of "bigness," which had led him to reject Harvard Law School's expansion, moved him to envision at Louisville a more intimate learning environment where the law school could "devote itself to teaching the law in a fine and helpful way." Similarly, his belief that creativity flourished outside large organizations led him to predict that the states, rather than the national government, would become the principal incubators of new ideas in public policy. He urged universities and law schools to support this grass-roots creativity. One of Justice Brandeis's close

collaborators in Louisville, Robert N. Miller, explained the Justice's concept of this role for legal education generally and for the University of Louisville's law school in particular:

[A law school should] be one of the leaders of legal thought in the state...an influence tending to maintain the highest standards of legal and judicial thought and policy; among other services it can render, it will be ready with wise advice with regard to the new legislation which changing conditions from time to time may require...Such a school may be at the same time closely in touch with modern thought everywhere, and yet an integral part of Kentucky, Kentuckian to the backbone. A law school which rises to the point of fully meeting the needs of its own state will find itself honored by the respectful admiration of all other states. In solving its home problems with distinction, it acquires specialized knowledge of which even the proudest institutions of other states are glad to avail themselves...

...Kentucky is a state where such an aim is not too ambitious to be realized.

Drawing upon his experience as a practitioner and recognizing that law is shaped significantly by societal forces, Justice Brandeis believed a lawyer's education must extend beyond the discipline of law itself.

The University of Louisville is not yet finished responding to Justice Brandeis's ambitious agenda. As noted by the law faculty in their resolution embracing the Brandeis name, "[t]he legacy of Justice Brandeis has been an historic foundation of the School of Law and is an inspiring charter for its future."

Top Ten Legal Issues for Which Brandeis is Known

During 2016 presentations to legal groups, including the Kentucky Bar Association and the Sixth Circuit Judicial Conference, Laura Rothstein and Peter Scott Campbell prepared a list of the top ten legal issues for which Brandeis is known. The list below is adapted from those presentations.

PRIVACY

In *Right to Privacy*, an article published in the Harvard Law Review in 1890, Brandeis was inspired by his disdain for the coverage of intimate personal lives in society columns of newspapers. This article continues to be one of the most-cited law review articles in history.

Recent inventions and business methods call attention to the next step which must be taken for the protection of the person, and for securing to the individual what Judge Cooley calls the right "to be let alone." Instantaneous photographs and newspaper enterprise have invaded the sacred precincts of private and domestic life; and numerous mechanical devices threaten to make good the prediction that "what is whispered in the closet shall be proclaimed from the house-tops."

The Right to Privacy, HARVARD LAW REVIEW v.4 no.5 (December 15, 1890), p.195.

In a sense, Brandeis invented the concept of a constitutional right to privacy. The term "privacy" is not in the Constitution, but many judicial decisions have referenced this right based on Brandeis's first use of the term and concept.

One of those decisions is *Olmstead v. United States* (1928), where the Supreme Court reviewed whether the use of wiretapped private telephone conversations, obtained by federal agents without judicial approval and subsequently used as evidence, constituted a violation of the defendant's rights provided by the Fourth and Fifth Amendments. In a 5-4 decision, the Court held that neither the Fourth Amendment nor the Fifth Amendment rights of the defendant were violated. Brandeis wrote a dissenting opinion.

The makers of our Constitution undertook to secure conditions favorable to the pursuit of happiness. They recognized the significance of man's spiritual nature, of his feelings and of his intellect. They knew that only a part of the pain, pleasure and satisfactions of life are to be found in material things. They sought to protect Americans in their beliefs, their thoughts, their emotions and their sensations. They conferred, as against the government, the right to be let alone--the most comprehensive of rights and the right most valued by civilized men. To protect that right, every unjustifiable intrusion by the government upon the privacy of the individual, whatever the means employed, must be deemed a violation of the Fourth Amendment.

Olmstead v. United States, 277 U.S. 438, 478 (1928).

The *Olmstead* decision was later overturned by *Katz v. United States* in 1967.

BRANDEIS MEDAL RECIPIENTS

1983



Harry Blackmun

Associate Justice,
U.S. Supreme Court

1985



Charles Allen

Senior District Judge,
Western District of Kentucky

1986



Christopher Dodd

United States Senator

1987



John S. Palmore

Chief Judge,
Third Circuit Court of Appeals

FREEDOM OF SPEECH

Whitney v. California (1927) was a case in which a member of the Communist Labor Party of California was prosecuted under that state's Criminal Syndicalism Act. The act prohibited advocating, teaching or aiding the commission of a crime.

The decision is most notable for the concurring opinion written by Justice Brandeis, in which he argued that only clear, present, and imminent threats of "serious evils" could justify suppression of speech.

No man but a fanatic can be sure that his opinions—political, economic, or social—are correct. But no man, be he reactionary or progressive, ought to doubt that free thought and free speech are necessary in a democracy; and that their exercise in things public should be encouraged.

Quoted in Alpheus Mason's *A FREE MAN'S LIFE* (Viking Press, 1946) p. 506.

Fear of serious injury cannot alone justify suppression of free speech and assembly. Men feared witches and burnt women. It is the function of speech to free men from the bondage of irrational fears.

Whitney v. California, 274 U.S. 357, 376 (1927).

BRANDEIS BRIEF

In arguing *Muller v. Oregon* (1908) before the Supreme Court, Brandeis referenced social science and economics in support of a state law limiting working hours for women.

The NAACP adopted this approach in cases leading to *Brown v. Board of Education* (1954).

These same issues and use of social science and economics were incorporated into the judicial developments relating to affirmative action, which included a decision in the centennial year (2016) in *Fisher v. University of Texas* recognizing the policy implications of such practices.

CORPORATE REGULATION

In *The Curse of Bigness and Other People's Money and How the Bankers Use It*, Brandeis addressed the need for regulation of corporate activity and antitrust enforcement and raises concerns about both big corporations and big government.

The successful, the powerful trusts, have created conditions absolutely inconsistent with these—America's—industrial and social needs. It may be true that as a legal proposition mere size is not a crime, but mere size may become an industrial and social menace, because it frequently creates as against possible competitors and as against the employees, conditions of such gross inequality as to imperil the welfare of the employee and of the industry.

THE CURSE OF BIGNESS (Viking Press, 1934) p.107.

Size, we are told, is not a crime. But size may, at least, become noxious by reason of the means through which it was attained or the uses to which it is put.

OTHER PEOPLE'S MONEY AND HOW THE BANKERS USE IT (Franklin A. Stokes Co., 1914) p.163.

If the Lord had intended things to be big, he would have made man bigger—in brains and character.

THE FAMILY LETTERS OF LOUIS D. BRANDEIS (University of Oklahoma Press, 2002) p.533.

STATES AS LABORATORIES OF DEMOCRACY

In *New State Ice Company v. Liebmann* (1932), the Supreme Court held that due process prevented a state legislature from arbitrarily creating restrictions on new businesses only on the claim that their markets affected a public use.

In demonstrating the value of deference to state and locally created policies, Brandeis in his dissent noted:

It is one of the happy incidents of the federal system that a single courageous state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country.

New State Ice Company v. Liebmann, 285 U.S. 262, 311 (1932).

In 2016, Justice Kennedy referenced the Brandeis dissent in his majority opinion in *Fisher v. University of Texas*, addressing the use of race in university admissions to ensure diversity.

In striking this sensitive balance [pursuing diversity and ensuring constitutionally equal treatment], public universities, like the States themselves can serve as "laboratories for experimentation." *United States v. Lopez*, 514 U.S. 549, 581 (1995) (KENNEDY, J., concurring); see also *New State Ice Co. v. Liebmann*, 285 U.S. 262, 311 (1932) (Brandeis J., dissenting).

TRANSPARENCY

Recognizing the importance of transparency by governmental entities and private entities engaged in commerce and public life, Brandeis noted in work before his service on the court.

Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman.

OTHER PEOPLE'S MONEY AND HOW THE BANKERS USE IT (Franklin A. Stokes Co., 1914) p.92.

Today's concerns about campaign finance and related issues highlight once again the fact that the wisdom of Brandeis has withstood the test of time. Federal and state open records laws provide the basis for ensuring transparency of deliberation and decisions by public bodies.

PUBLIC SERVICE

The Legal Aid Society was created in 1876, and it established a professional ethic that lawyers should provide legal services to those in poverty.

That concept of service was expanded by the advocacy for causes that Brandeis began on a pro bono basis. The first well-known example of this was his advocacy in 1908 when he argued before the Supreme Court for upholding Oregon's working conditions law in *Muller v. Oregon*.

He went on to engage in advocacy for many projects ranging from banking and transportation regulation and support for other working conditions for the labor force. He reimbursed his law firm for the time he spent on these causes.

He became known as "The People's Attorney" for this work.

Some men buy diamonds and rare works of art, others delight in automobiles and yachts. My luxury is to invest my surplus effort, beyond that required for the proper support for my family, in the pleasure of taking up a problem and solving, or helping to solve it, for the people without

1991



Morris Dees

Cofounder,
Southern Poverty Law Center

1992



Sandra Day O'Connor

Associate Justice,
U.S. Supreme Court

1994



Leon Higginbotham, Jr.

Chief Judge,
Third Circuit Court of Appeals

1995



Robert M. Morgenthau

New York District Attorney

receiving any compensation. Your yachtsman or automobilist would lose much of his enjoyment if he were obliged to do for pay what he is doing for the love of the thing itself. So I should lose much of my satisfaction if I were paid in connection with public service of this kind.

THE CURSE OF BIGNESS (Viking Press, 1934) p.266.

PROGRESSIVISM AND USE OF LAW FOR SOCIAL CHANGE

The progressive era was a time between the 1890s and 1920s when there was substantial social activism and political reform in the United States.

Brandeis was one of the leaders of this movement. His influences include his advice to political leaders on a range of issues including antitrust and business regulation, and his support for small business. His articulate views on law and regulation being used for social justice made him a persuasive force.

The courts accept and interpret the progress which society has made; but progress in a democracy implies the people's freedom to criticize and develop the very civilization which the courts conserve.

THE LETTERS OF LOUIS D. BRANDEIS v.2 (State University of New York Press, 1972) p.532.

WORKER CONDITIONS

Brandeis created the Savings Bank Life Insurance Company in 1907 as a low-cost, trustworthy alternative for life insurance at a time of distrust in the insurance industry.

This company was created primarily to benefit the labor force. He also worked on issues of labor conditions related to safety and health as well as economic security. It was through this work that Brandeis became known as "counselor to the situation" in which his approach to issues was to find a solution that benefited both labor and employer, a role more like a mediator or negotiator today.

Both labor and employers should bear constantly in mind that each is his brother's keeper; that every employer is injured by any single employer who does labor a wrong; and that every laboring man and every union is injured by every individual unionist who does an employer wrong.

THE CURSE OF BIGNESS (Viking Press, 1934) p.92.

ACQUISITION OF FACTS

Both as an advocate for a client or a cause and as a justice on the Court, Brandeis gave extraordinary attention to knowing everything there was to know about an industry, an issue, or a series of events.

This desire to know the facts, along with his principles and his extraordinary memory, made him a fearsome adversary and a welcome supporter.

Knowledge is essential to understanding and understanding should precede judging.

Interstate Trade Commission—Hearings Before the Committee on Interstate and Foreign Commerce, House of Representatives. Sixty Third Congress, Second Session, January 30 to February 16, 1914. (Washington: Government Printing Office, 1914.)

Timeline of Key Dates and Brandeis's Louisville Connections

1856 Born in Louisville (November 13)

1870 Graduates from Male High School

1872 Brandeis and his family go to Europe
Attended Annen-Real-schule in Dresden until 1875

1875 Enrolls at Harvard Law School

1877 Graduates from Harvard Law School at the head of the class at age 20

1879 Begins practice with Samuel Warren in Boston after practicing briefly in St. Louis with his brother-in-law

1890 Publishes *The Right to Privacy* with Samuel Warren, still one of the most-cited law review articles in history

1891 Marries Alice Goldmark

1907 Savings Bank Life Insurance Company established as a result of advocacy of Brandeis

1908 Writes the Brandeis Brief, using social science and economics as part of a legal argument in the *Muller v. Oregon* case argued before the Supreme Court

1916 Appointed to the Supreme Court (January 28 nomination; June 1 Senate confirmation)

1939 Resigns from the Supreme Court

1941 Dies (October 5); remains and those of Alice Goldmark rest in the portico of the University of Louisville School of Law

1982 Brandeis School of Law establishes the Brandeis Medal

1990 Law school adopts public service requirement for all students

1997 University of Louisville School of Law renamed Louis D. Brandeis School of Law

2006 Law school celebrates the sesquicentennial of Brandeis' birth

BRANDEIS MEDAL RECIPIENTS

1996



Archibald Cox
Watergate Prosecutor
Harvard Law Professor

1997



Charles Ogletree
Harvard Law Professor

1998



Stephen Bright
Director,
Southern Center for Human Rights

1999



Abner Mikva
Judge, D.C. Circuit Court of Appeals
White House Counsel

Kentucky Roots

In 2009, when reviewing Melvin Urofsky's biography of Louis D. Brandeis, Alan Dershowitz noted that if one were ranking the top judges in America's history, Justice Louis D. Brandeis would rank in the top three. If the top lawyers were ranked, nearly every list would rank Louis Brandeis (along with Abraham Lincoln) at the top of the list. The only person whose name would appear on both lists would be Louis Brandeis.

Jan. 28, 2016, marked the 100th anniversary of the nomination of noted lawyer and social reformer Louis

Brandeis to be a justice of the United States Supreme Court, a nomination process that took more than four months to complete because of the controversy about his progressive philosophy and his religion. The Commonwealth of Kentucky can be proud that Louis D. Brandeis is a native of Kentucky and Louisville and that he always remained strongly connected to the community that shaped his values and principles. He was born in Louisville and chose the University of Louisville School of Law (which was named for him in 1997) as his final resting place.

Continuing the Legacy

Justice Brandeis's impact continues to be felt in the law and our society, and he is also celebrated in a variety of tangible ways.

In 2006, the law school produced a book recognizing the 150th anniversary of Louis Brandeis' birth, *Brandeis at 150: The Louisville Perspective*.

HOMETOWN HEROES BANNER

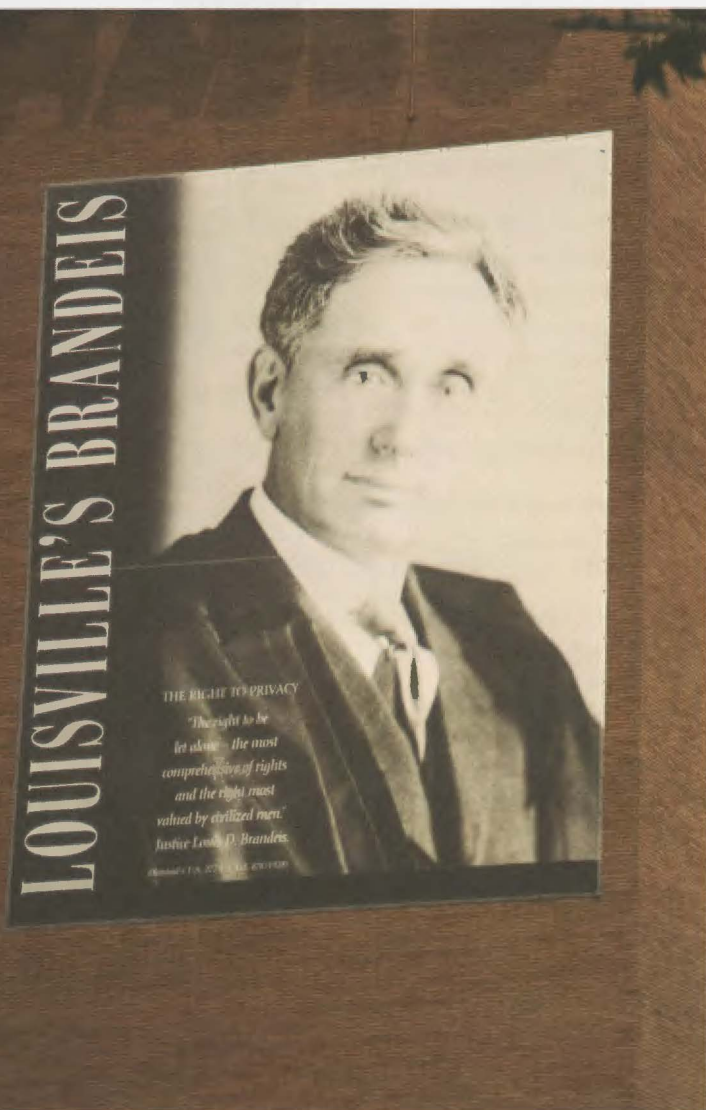
Brandeis's hometown recognized his legacy in one of the posters of famous Louisvillians displayed on the façades of buildings throughout the city as part of the city's Hometown Heroes campaign.

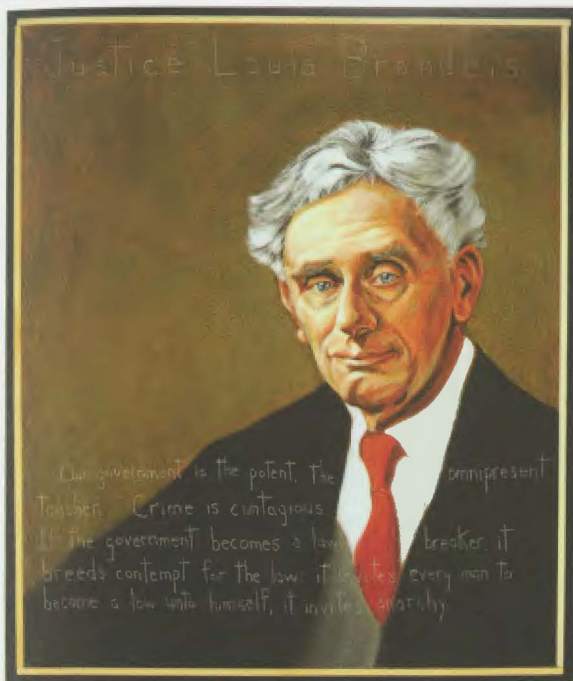
This poster was installed in 2004 at 416 W. Jefferson St.

LOUIS D. BRANDEIS: THE PEOPLE'S ATTORNEY (2007)

One of the accomplishments of which Brandeis was most proud was the creation of the Savings Bank Life Insurance Company in 1907. The plan was to create a program enabling Massachusetts wage earners to purchase life insurance from a savings bank.

SBLI commissioned a documentary, produced by Charles Stuart, to celebrate the centennial. This hour-long documentary was shown on public television for several years and can be viewed online at brandeis.edu/ldb-100/multimedia.html. The documentary highlights not just the creation of SBLI, but also the legacy that Brandeis brought to the concept of public service.





AMERICANS WHO TELL THE TRUTH PORTRAIT (2009)

Robert Shetterly is an American artist known for his "Americans Who Tell the Truth" portrait series.

In 2009, he painted Louis Brandeis and granted permission to the law school to make two reproductions of the portrait. The replicas were made possible through the generosity of Christy and Owsley Brown.

The portrait was unveiled May 28, 2009, at the law school.

One copy of the portrait is located in the commons area of the law school. The other is in the law and government classroom of Central

High School, with which the Brandeis School of Law has a partnership where law students teach civil liberties and other topics to high school students in the Law and Government Magnet Program.

COMMEMORATIVE STAMP AND SPECIAL CANCELLATION ENVELOPE (2009)



In recognition of the contributions of four Supreme Court Justices — Louis D. Brandeis, Joseph Story, William J. Brennan Jr. and Felix Frankfurter — the United States Postal Service issued a set of stamps in their honor Sept. 22, 2009.

To mark the occasion and the connection of Justice Brandeis to the Louisville community, the Postal Service created 153 (to reflect the 153rd anniversary of the birth of Louis Brandeis) commemorative envelopes and a special cancellation.

The special envelope was designed by Leslie Friesen, the Power Creative design-in-residence at the University of Louisville Hite Art Institute. Louisville Postmaster Richard Curtsinger gave the commemoration Nov. 9, 2007, at the Brandeis School of Law.

2000



John Lewis

Member, U.S. House of Representatives

2001



Samuel Dash

Chief Counsel, Senate Watergate Committee
Georgetown University Law Professor

2002



Janet Reno

United States Attorney General

2003



Ruth Bader Ginsburg

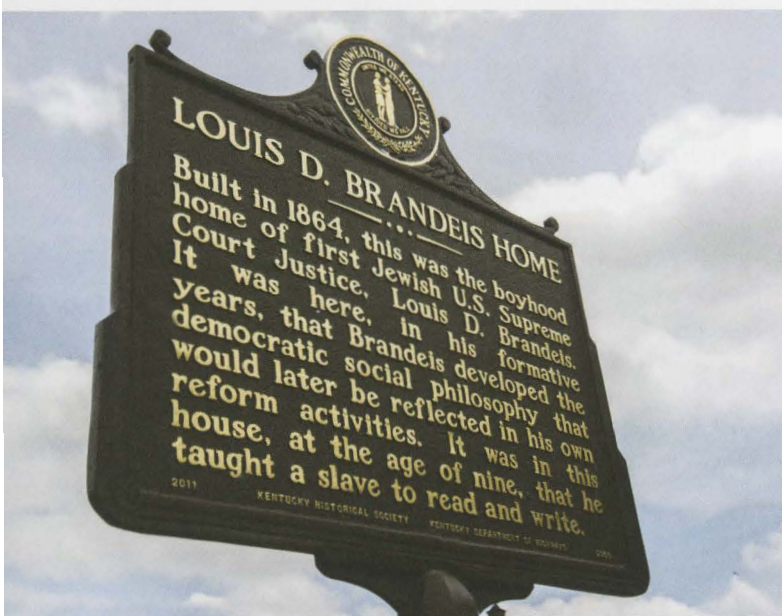
Associate Justice,
U.S. Supreme Court



HISTORICAL MARKER (2012)

As a student at Louisville's Atherton High School, Andrew Segal learned that the boyhood home of Louis Brandeis did not have a historical marker.

After working for two years with the Kentucky Historical Society and the Kentucky Transportation Cabinet and raising funds to cover the cost, Andrew succeeded in ensuring placement of the landmark on East Broadway in downtown Louisville.



The marker notes:

Brandeis believed in honoring the people who helped him succeed. During his 23 years on the bench, he stayed interested in his home town. His influence, and gifts of money and personal papers, stimulated growth of the Univ. of Louisville Law School. He named collections after former high school teachers.

Centennial Year Events

In an effort to promote knowledge and understanding, the Brandeis School of Law is committed to exposing students, the university and the community to relevant topics facing law and society.

To commemorate the 100th anniversary of Justice Brandeis's nomination and appointment to the Supreme Court, the centennial year has focused on Brandeis' life and legacy and how his jurisprudence affects today's issues.

Activities included:

- **January 28** (date of the nomination): Presentation to the law school community about Brandeis and his connection to the city of Louisville, the University of Louisville and the law school
- **May 11**: Panel presentation at the Kentucky Bar Association Annual Convention by Howard Fineman, Melvin Urofsky and Laura Rothstein
- **May 25**: Presentation by Laura Rothstein to Sixth Circuit Judicial Conference
- **June 9**: Keynote address at the Warns-Render Institute on Labor and Employment Law by Lance Liebman, former executive director of American Law Institute and former dean of Columbia Law School, on Brandeis and labor and employment
- **September 15**: Award of the Brandeis Medal to Associate Justice Elena Kagan
- **October 19**: Event at the Supreme Court Historical Society recognizing all Brandeis Medal recipients

Brandeis Laboratory for Democracy and Citizenship

In 2014, the law school began building the Brandeis Laboratory for Democracy and Citizenship, a series of programming opportunities that make key Brandeis values part of the education process while serving the community.

Still in its early stages, this program is growing and evolving every year. It seeks to eradicate societal barriers that exclude those who historically have had no voice in our polity and provide enlightenment to all citizens by supporting transparency of government activities.

The laboratory consists of three concepts, each with its own programming:

- Laboratory for Justice
- Laboratory for Interdisciplinary Research
- Laboratory for Experimentation

BRANDEIS MEDAL RECIPIENTS

2004



Stephen Breyer

Associate Justice,
U.S. Supreme Court

2005



Howard Baker

United States Senator
White House Chief of Staff
Ambassador to Japan

2008



Linda Greenhouse

Pulitzer Prize-Winning Journalist
and Author

2010



Melvin I. Urofsky

Brandeis Biographer

Laboratory for Justice

BRANDEIS SUNLIGHT PROJECT

This project highlights the work of Justice Brandeis through presentations, events and written materials, helping to ensure that his legacy remains central to our law school.

HUMAN RIGHTS ADVOCACY PROGRAM

Through this program, incoming students are identified during the admissions process as leaders ready to work on human rights advocacy from their first day of law school to graduation.

Students work with faculty members, community leaders, and upper-level students and receive fellowships supported by a grant from the Louisville Bar Foundation and the Samuel L. Greenebaum Public Service Program.

Projects have included work on the legal, medical and social service needs of the immigrant, noncitizen and refugee communities in Kentucky.

BRANDEIS FELLOWS

The Brandeis School of Law has supported the local Legal Aid Society and the Office of the Public Defender by providing release time to faculty members to work on cases or develop written materials to be made available to the public.

Laboratory for Interdisciplinary Research

In 1908, Louis Brandeis wrote a brief in the case of *Muller v. Oregon*, which involved the constitutionality of Oregon's limited working hours for women. For the first time in the history of the Supreme Court, a brief included only two or three pages of legal arguments and more than 100 pages of economics and social science research. That model became known as the "Brandeis Brief" and was specifically adopted by the NAACP in its litigation leading to *Brown v. Board of Education*.

This laboratory allows students to learn how policy change and social science research interact. There are plans for a course in which students draft amicus curiae briefs in state and federal appellate cases that raise important issues with public policy implications and which would afford the opportunity to use social science research.

Laboratory for Experimentation

This laboratory builds on Brandeis's belief that "If it attains its highest usefulness, a law school ... must serve not only law students, but the whole public, and this service — to the people at large — is just as important as the service to students."

The Laboratory for Experimentation allows students to take a legal theory they have learned in class and learn how to implement it to effect policy change.

Beginning in spring 2017, a new course — Ideas to Action: Policy Implementation — will give students the opportunity to draft policy documents and identify next steps in policy implementation.

Bibliography

Prepared by Peter Scott Campbell, faculty member at the Brandeis School of Law, who maintains a blog with current information about Brandeis. The Brandeis and Harlan Watch blog is accessible at brandeiswatch.wordpress.com.

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The Family Letters of Louis D. Brandeis. Edited by Melvin I. Urofsky and David W. Levy. (Norman: University of Oklahoma Press, 2002.)

LEADING OPINIONS BY BRANDEIS

Ashwander v. Tennessee Valley Authority, 297 U.S. 288 (A 1936 concurrent opinion outlining guidance to the types of cases the Supreme Court should — or should not — hear. These rules have come to be called the Ashwander Rules.)

Erie Railroad Co. v. Tompkins, 304 U.S. 64 (A 1938 case involving a man who was injured by a passing train. Brandeis's opinion asserted that federal courts should adhere to state law when settling cases that arise between citizens of states.)

New State Ice v. Liebmann, 285 U.S. 262 (A 1932 dissent in a case involving business licensing arguing that states should have the leeway to experiment to solve their problems. This opinion is the source of the famous quote which described states as the "laboratories of democracy.")

Olmstead v. United States, 277 U.S. 438 (A 1928 case involving the conviction of a bootlegger based on evidence gathered from a telephone tap. The Court upheld the conviction but Brandeis dissented, arguing that the police violated the Fourth Amendment by not obtaining a warrant for the tap of private conversations.)

Whitney v. California, 274 U.S. 357 (A 1927 case in which the Court upheld the conviction of a woman for violating California's law against speaking out in favor of the overthrow of the government. In a concurring opinion, Brandeis made a stirring statement on the importance of free speech.)

2013



John Paul Stevens

Associate Justice,
U.S. Supreme Court

2014



Eugene Robinson

Pulitzer Prize-Winning Journalist
and Author

2015



Arthur R. Miller

Professor, New York University
Law School

2016

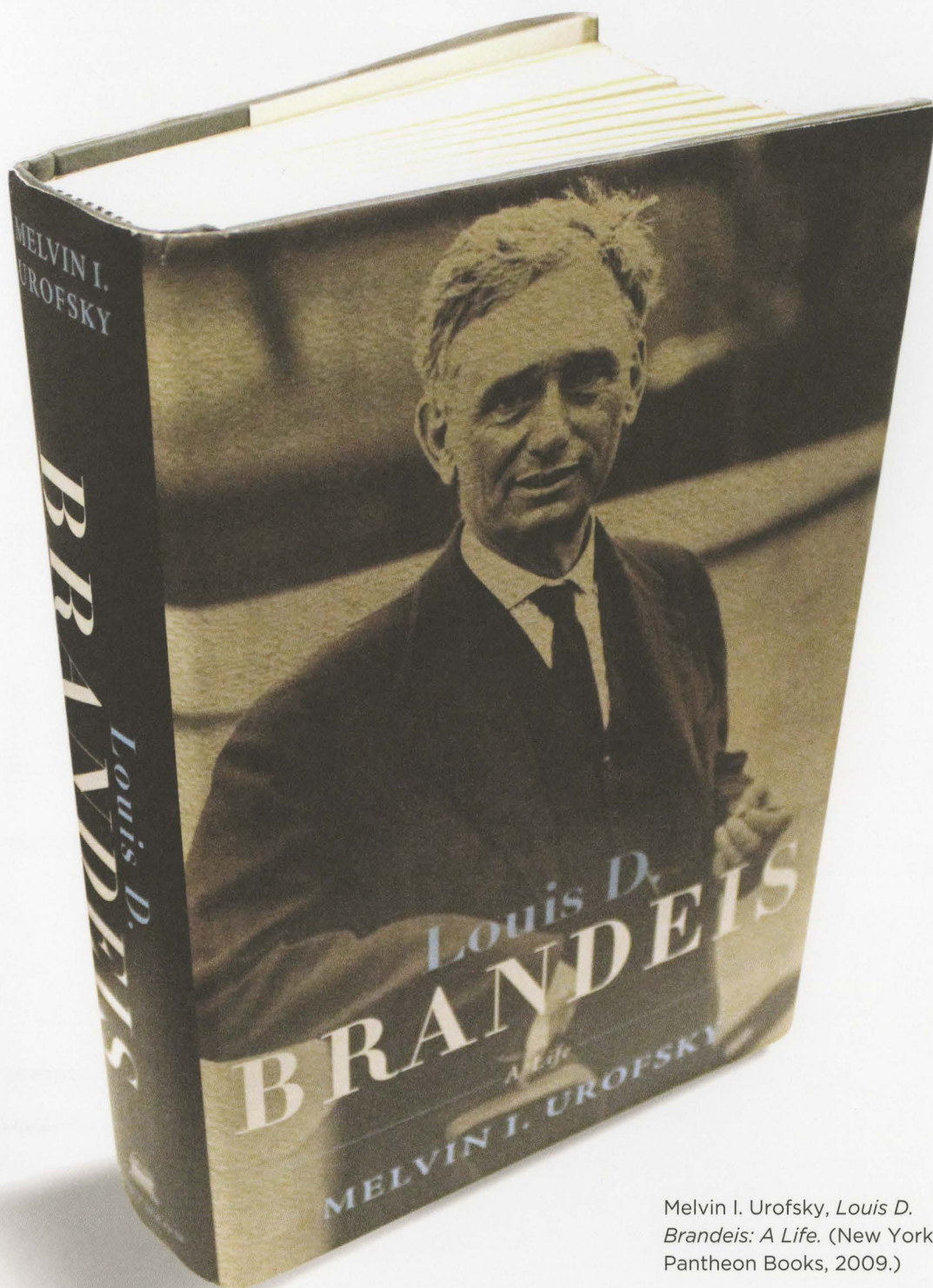


Elena Kagan

Associate Justice,
U.S. Supreme Court

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